

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-cv-21463-ALTMAN/Sanchez

NEREYDA SUHEY CASTILLO MARENCO,

Plaintiff,

v.

J.C. PAINTING CONTRACTOR LLC,
et al.,

Defendants.

/

ORDER GRANTING MOTION FOR BILL OF COSTS

On July 25, 2024, we entered final judgment in favor of the Plaintiff under FED. R. CIV. P. 68.

See Final Judgment [ECF No. 28]. As part of that Final Judgment, we awarded the Plaintiff “costs pursuant to 29 U.S.C. § 216(b)[.]” *Id.* ¶ 1(c). Accordingly, our Plaintiff has filed an unopposed Motion for Bill of Costs (the “Motion”) [ECF No. 29]. After careful review of the Motion, the record, and the applicable law, we now **GRANT** the Motion.

Pursuant to FED. R. CIV. P. 54(d)(1), “[u]nless a federal statute, these rules, or a court order provides otherwise, costs—other than attorney’s fees—should be allowed to the prevailing party.” The Eleventh Circuit has held that Rule 54 “creates a presumption in favor of awarding costs to the prevailing party[.]” *Manor Healthcare Corp. v. Lomelo*, 929 F.2d 633, 639 (11th Cir. 1991). A prevailing party is “one who has succeeded on any significant claim affording it some of the relief sought.” *Tex. State Tchrs. Ass’n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 791 (1989).

Under 28 U.S.C. § 1920, a district court may tax as costs the following:

- 1) Fees of the Clerk and marshal;
- 2) Fees for printed or electronically recorded transcripts necessarily obtained for use in the case;

- 3) Fees and disbursements for printing and witnesses;
- 4) Fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in the case;
- 5) Docket fees under section 1923 of this title;
- 6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

28 U.S.C. § 1920. “[A]bsent explicit statutory or contractual authorization, federal courts are bound by the limitations set out in 28 U.S.C. § 1920.” *Arcadian Fertilizer, L.P. v. MPW Indus. Servs., Inc.*, 249 F.3d 1293, 1296 (11th Cir. 2001).

Our Plaintiff seeks repayment of the following expenses: \$405.00 for the filing fee; and \$277.20 for the costs associated with serving the summons and complaint on the three Defendants. *See* Motion at 1. The Plaintiff thus seeks a total of \$682.20 for the costs she incurred in prosecuting this case.

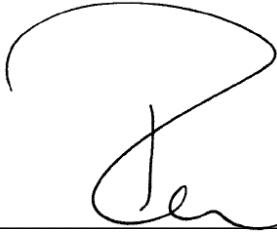
The \$402.00 filing fee is clearly compensable under § 1920. *See U.S. E.E.O.C. v. We&O, Inc.*, 213 F.3d 600, 623 (11th Cir. 2000) (“Pursuant to § 1920(1), ‘[f]ees of the clerk and marshal’ may be taxed as costs.”). And, although the statute doesn’t expressly provide for recovery of fees for service executed by a private party, the Eleventh Circuit has “h[eld] that private process server fees may be taxed pursuant to §§ 1920(1) and 1921.” *Id.* at 624. To be taxable, the private process server fees must “not exceed the statutory fees authorized in § 1921.” *Ibid.* The current Marshal’s fee is \$65.00 per hour. 28 C.F.R. § 0.114(a)(3). Here, the Plaintiff paid \$45.00 per hour for service of each subpoena (plus a nominal printing fee of \$1.80), *see* Exhibits to the Motion [ECF No. 29-1], which doesn’t “exceed the statutory fees authorized in § 1921,” *E.E.O.C.*, 213 F.3d at 624. The only problem, though, is that the Plaintiff has asked to be reimbursed for the *non-service* of Defendant Maria Gonzalez (in addition to the *effectuated service* of that Defendant). *See id.* at 1–2. This we will not do because the Plaintiff has not

“provide[d] evidence justifying the need for multiple service attempts.” *Cadle v. Geico Gen. Ins. Co.*, 2015 WL 4352048, at *3 (M.D. Fla. July 14, 2015) (Kelly, Mag. J.). The Plaintiff, therefore, may recover \$635.40 as taxable costs (instead of the requested \$682.20).

* * *

Accordingly, we hereby **ORDER AND ADJUDGE** that the Plaintiff’s Motion for Bill of Costs [ECF No. 29] is **GRANTED in part**. The Plaintiff is awarded **\$635.40 in taxable costs**, plus interest according to law from the date of Final Judgment until the entire amount is paid, for which sum let execution issue.

DONE AND ORDERED in the Southern District of Florida on August 6, 2024.



ROY K. ALTMAN
UNITED STATES DISTRICT JUDGE

cc: counsel of record